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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,990	09/09/2003	Francis J. Ossmann	586-056	1289
27106	7590	07/28/2005	EXAMINER	
MELVIN I. STOLTZ, ESQ. 51 CHERRY STREET MILFORD, CT 06460			GREEN, BRIAN	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/657,990

Applicant(s)

OSSMANN, FRANCIS J.

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claims 1-20 is withdrawn in view of the newly discovered reference(s) to France 2,717,776. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 112***

Claims 11, 12, and 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, line 2, there is no antecedent basis for "the spring-force generating member". In claim 12, line 6, there is no antecedent basis for "the activation control arm". In claim 15, line 3, it is not clear which panel the applicant is referring to in the phrase "said panel of the housing". In claim 16, section A., line 3, there is no antecedent basis for "the panel member". In claim 16, section B., line 7, it is not clear what panels the applicant is referring to in the phrase "the panels, causing the panels to move" (both occurrences).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over France 2,717,776 in view of Reuben (U.S. Patent No. 5,778,574).

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France '776 shows in figures 1-3 a housing (the box shown in figures 1 and 2) comprising a plurality of panels (1,3,4,etc.), a biasing member (12) connected to the housing for causing the panels to move from a first flat configuration to a second three-dimensional configuration, an audio signal generating assembly (13) mounted on the housing and constructed for producing a desired audio signal when activated, and an arm member (14) mounted to the housing for movement therewith when the panels move from the first configuration to the second configuration. It is not clear from France '776 whether the device includes a switch which is engaged with the arm member for turning the generating assembly on and off. Reuben shows in figures 1-7 a display device that includes an arm member (19,20) that engages a switch (21 or 33) and moves when the panels move in order to allow the switch to move from an off position to an on position. In view of the teachings of Reuben it would have been obvious to one in the art to modify France '776 by providing the switch assembly and arm member disclosed by Reuben since this would allow the device to be turned on and off in a more reliable manner and would make the switch assembly more durable. In regard to claim 2, France '776 discloses on page 1, lines 14-16, the idea of placing indicia on the outside surface of the panels forming the housing. In regard to claim 3, the housing of France '776 includes panels which are cooperatively associated with each other. In regard to claim 4, France '776 shows that the housing is three-dimensional and the configuration includes rectangles. In regard to claim 5, the device of France '776 includes an electronic circuit but it is not clear whether it includes a speaker. Reuben shows in figures 4 and 5 a speaker (24) attached to the device. In view of the teachings of Reuben it would have been obvious to one in the art to modify France '776 by attaching a speaker to the device since this would allow the device to be heard in a better and

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clearer manner. In regard to claim 6, France '776 shows in figure 2 that the circuit (13) is attached to the interior of the housing. In regard to claims 7 and 17, the indicia on the housing is considered to be "related" to the audible message. In regard to claim 8, France '776 discloses the idea of making the sound in the form of music or a voice message, see page 2, lines 1-4. In regard to claims 9-11, France '776 discloses that the biasing member is formed from rubber bands, see pages 2 and 3. In regard to claims 12,13,18, and 19, France '776 shows in figure 3 that the arm (14) is attached to a support panel (the panel having the holes (11) therein. In regard to claims 14,15, and 20, a panel of the housing (15) of Reuben is considered to be the interior plate.

#### ***Response to Arguments***

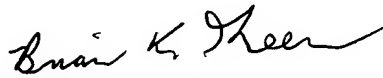
Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRIAN K. GREEN  
PRIMARY EXAMINER

Bkg  
July 12, 2005